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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO AND OAKLAND DIVISION

THOMAS FERNANDEZ, LORA SMITH, and
 TOSHA THOMAS, individually and on behalf
 of a class of all other persons similarly situated,

Plaintiffs,

vs.

K-M INDUSTRIES HOLDING CO., INC.;
 K-M INDUSTRIES HOLDING CO., INC.
 ESOP PLAN COMMITTEE; WILLIAM E.
 AND DESIREE B. MOORE REVOCABLE
 TRUST; TRUSTEES OF THE WILLIAM E.
 AND DESIREE B. MOORE REVOCABLE
 TRUST; CIG ESOP PLAN COMMITTEE;
 NORTH STAR TRUST COMPANY;
 DESIREE B. MOORE REVOCABLE TRUST;
 WILLIAM E. MOORE MARITAL TRUST;
 WILLIAM E. MOORE GENERATION-
 SKIPPING TRUST; and DESIREE MOORE,
 BOTH IN HER INDIVIDUAL CAPACITY
 AND AS TRUSTEE OF THE WILLIAM E.
 AND DESIREE B. MOORE REVOCABLE
 TRUST'S SUCCESSOR TRUSTS NAMED
 ABOVE,

Defendants.

Case No. C-06-07339 CW

**[PROPOSED] ORDER GRANTING
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION AND
 APPOINTMENT AS CLASS
 COUNSEL**

Date: July 3, 2008
 Time: 2 p.m.
 Courtroom: 2, 4th Floor
 Judge: Hon. Claudia Wilken

1 Having considered the parties' written and oral submissions regarding Plaintiffs' Motion
2 for Class Certification, the Court finds and determines pursuant to Federal Rule of Civil
3 Procedure 23 that Plaintiffs' Motion for Class Certification should be granted. Accordingly, this
4 Court certifies a nationwide Class. The Court finds that:

5 1. The class of over 2,500 class members is so numerous as to make it impracticable
6 to join all members. Thus, the requirements of Rule 23(a)(1) are met.

7 2. There are common questions of law and fact with respect to the Class Members'
8 claims for violation of ERISA Section 502 and ERISA Section 406. The common questions of
9 law and fact include: a) whether K-M Defendants and the Moore Trust Defendants engaged in
10 prohibited transactions under ERISA by permitting the ESOP to purchase Series P and Series I
11 stock for more than fair market value; b) whether K-M Defendants engaged in a prudent
12 investigation of the proposed sale of Series P and Series I stock by the Moore Trust to the ESOP;
13 c) whether K-M Defendants breached a fiduciary duty to Plan participants by causing the ESOP
14 to purchase Series I and Series P stock from the Moore Trust for more than fair market value; d)
15 whether K-M Defendants breached their fiduciary duties to Plan participants by failing to obtain
16 adequate valuations of Series I and Series P stock in each year; e) whether K-M Defendants
17 breached their fiduciary duties to Plan participants by failing to recoup overpayments by the Plan
18 for Series I and Series P stock; f) whether North Star, as successor trustee, failed to take
19 reasonable steps to remedy fiduciary violations committed by prior fiduciaries; g) whether the
20 ESOP suffered losses resulting from such breaches; and h) whether Defendants must make the
21 ESOP whole for such losses. Thus, the requirements of Rule 23(a)(2) are met.

22 3. The claims of Plaintiffs Thomas Fernandez, Lora Smith, and Tosha Thomas are
23 typical of the claims of the Class Members because they assert the same claims as the Class and
24 their claims arise from the same operative facts. Thus, the requirements of Rule 23(a)(3) are
25 met.

26 4. Plaintiffs Thomas Fernandez, Lora Smith, and Tosha Thomas will fairly and
27 adequately protect the interests of the class as class representatives. The named Plaintiffs are
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1 represented by counsel experienced and qualified to conduct the pending litigation and the
2 interests of the named Plaintiffs are not antagonistic to those of the Class. Thus, the
3 requirements of Rule 23(a)(4) are met.

4 5. Adjudications with respect to individual members of the Class would impair
5 others from protecting their interests because an action seeking to remedy an ERISA breach of
6 fiduciary duty is brought in a representative capacity on behalf of the plan as a whole. The
7 Court's adjudication of the issues in this case will, as a practical matter, dispose of the Class
8 members' claims. Thus, the requirements of Rule 23(b)(1)(B) are met.

9 6. Adjudications with respect to individual members of the Class would create a risk
10 of inconsistent adjudications with incompatible standards because the core claims affect the
11 whole plan and all plan participants in the same manner. Different outcomes in multiple cases
12 would make it nearly impossible for Defendants to comply. Thus, the requirements of Rule
13 23(b)(1)(A) are met.

14 7. Defendants' conduct at issue in this case generally applies to the whole Class,
15 making injunctive and declaratory relief appropriate. Plaintiffs seek declaratory and injunctive
16 relief. Thus, the requirements of Rule 23(b)(2) are met.

17 8. Plaintiffs' counsel are knowledgeable about and have extensive experience in the
18 applicable area of the law, and have committed adequate resources to representing the class.
19 Thus, Plaintiffs' counsel has satisfied the requirements of Rule 23(g).
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22 In light of the foregoing and good cause appearing,

23 IT IS ORDERED as follows:

24 1. Pursuant to Fed. R. Civ. P. 23(a) and 23(b)(1) and (b)(2), Plaintiffs' claims for
25 violation of ERISA Section 502 and ERISA Section 406 are certified on an opt-out basis.

26 2. The Class is defined as all persons who were participants in the ESOP on October
27 13, 1998, or at any time thereafter, and/or beneficiaries of ESOP participants on October 13,
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1 1998, or any time thereafter.

2 3. Plaintiffs Thomas Fernandez, Lora Smith, and Tosha Thomas are appointed class
3 representatives of the Class. The law firms of Lewis, Feinberg, Lee, Renaker & Jackson, P.C.,
4 and Rukin Hyland Doria & Tindall LLP are appointed as Class Counsel.

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6 Dated: _____

7 Hon. Claudia Wilken
8 United States District Judge,
9 Northern District of California
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